

DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
WILLIAM S. HABDAS, ESQ.  
Nevada Bar No. 13138  
AKERMAN LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: darren.brenner@akerman.com  
Email: william.habdas@akerman.com

*Attorneys for Plaintiff The Bank of New York  
Mellon FKA The Bank of New York as Trustee  
for the Certificate Holders CWALT, Inc.  
Alternative Loan Trust 2005-45 Mortgage Pass-  
Through Certificates, Series 2005-45*

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

THE BANK OF NEW YORK MELLON FKA  
THE BANK OF NEW YORK AS TRUSTEE  
FOR THE CERTIFICATE HOLDERS CWALT,  
INC. ALTERNATIVE LOAN TRUST 2005-45  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2005-45,

Plaintiff,

v.

MONTAGNE MARRON COMMUNITY  
ASSOCIATION; and ALESSI & KOENIG ,  
LLC,

Defendants.

Case No. 2:16-cv-00360-JAD-PAL

**STIPULATION AND ORDER OF FINAL  
JUDGMENT CONFIRMING EXISTENCE  
AND VALIDITY OF DEED OF TRUST**

ECF No. 30

Plaintiff The Bank of New York Mellon FKA The Bank of New York as Trustee for the  
Certificate Holders CWALT, Inc. Alternative Loan Trust 2005-45 Mortgage Pass-Through  
Certificates, Series 2005-45 (**BNYM**) and defendant Montagne Marron Community Association  
(**Montagne Marron**) through their counsel of record, stipulate as follows:

1. This matter relates to real property located 10962 Ampus Place, Las Vegas, Nevada  
89141, APN 176-36-313-030 (the "Property"). The Property is more specifically described as:

## PARCEL I

LOT ONE HUNDRED TWENTY-TWO (122) IN BLOCK ONE (1) OF MONTAGNE MARRON AT SOUTHERN HIGHLANDS PHASE — 2B AS SHOWN BY MAP THEREOF ON FILE IN BOOK 94 OF PLATS, PAGE 24, AND AMENDED BY THAT CERTIFICATE OF AMENDMENT RECORDED MAY 15, 2000 IN BOOK 20000515 AS DOCUMENT NO. 00624, AND JUNE 28, 2000 IN BOOK 20000628 AS DOCUMENT NO. 01023 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

## PARCEL II

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, AND ENJOYMENT UPON AND OVER THAT PORTION OF SAID SUBDIVISION DELINEATED ON THE PLAT AS "PRIVATE STREET AND P.U.E. AND COMMON ELEMENT LOTS" AND FURTHER DESCRIBED IN THE COVENANTS, CONDITIONS AND RESTRICTION RECORDED MAY 18, 2000 IN BOOK 20000518 AS DOCUMENT NO. 00972 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

APN: 176-36-313-030

2. BNYM is the beneficiary of record of a Deed of Trust that encumbers the Property and was recorded on June 21, 2005, as Document Number 20050621-0005124 in the Official Records of Clark County, Nevada (the "Deed of Trust").

3. On February 6, 2012, Montagne Marron recorded a Trustee's Deed Upon Sale as Instrument Number 20120206-0001213 of the Official Records of Clark County, Nevada (the "HOA Foreclosure Deed"), reflecting that Montagne Marron purchased the Property at a foreclosure sale of the Property held February 1, 2011 (the "HOA Sale").

4. On February 23, 2016, BNYM initiated an action for quiet title and damages against Montagne Marron and Alessi & Koenig, LLC (**Alessi**) in the United States District Court, District of Nevada, Case No. 2:16-cv-00360-JAD-PAL (the "Quiet Title Action").

5. The Parties have entered a settlement agreement in which BNYM has resolved all claims against Montagne Marron and Alessi.

6. The parties agree as part of their settlement agreement, and the Court incorporates that agreement and its provision, that the Deed of Trust survived and was not extinguished in any capacity by the HOA Sale or the recording of the HOA Foreclosure Deed. The Deed of Trust

remains a valid encumbrance against the Property following the recording of the HOA Foreclosure Deed, and its interest in the Property following the HOA Sale was subject to the Deed of Trust.

DATED this 6th day of March, 2018.

**AKERMAN LLP**

**BOYACK BECK & TAYLOR**

/s/ William S. Habdas

DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

WILLIAM S. HABDAS, ESQ.

Nevada Bar No. 13138

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

/s/ Colli McKiever

EDWARD D BOYACK, ESQ.

Nevada Bar No. 5229

COLLI MCKIEVER, ESQ.

Nevada Bar No. 13724

401 N. Buffalo Drive, Suite #202

Las Vegas, NV 89145

*Attorneys for The Bank of New York Mellon  
FKA The Bank of New York as Trustee for the  
Certificate Holders CWALT, Inc. Alternative  
Loan Trust 2005-45 Mortgage Pass-Through  
Certificates, Series 2005-45*

*Attorneys for Montagne Marron Community  
Association*

### ORDER

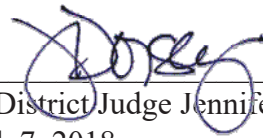
Based on the above stipulation between The Bank of New York Mellon FKA The Bank of New York as Trustee for the Certificate Holders CWALT, Inc. Alternative Loan Trust 2005-45 Mortgage Pass-Through Certificates, Series 2005-45 (**BNYM**) and defendant Montagne Marron Community Association (**Montagne Marron**), the Parties' agreement, and good cause appearing therefore,

IT IS ORDERED that the Deed of Trust recorded in the Official Records of Clark County, Nevada against the real property located 10962 Ampus Place, Las Vegas, Nevada 89141, APN 176-36-313-030 (the "Property") on June 21, 2005, as Document Number 20050621-0005124 was not extinguished, impaired, or otherwise affected by the foreclosure sale conducted by Montagne Marron on February 1, 2011 or the recording of the Foreclosure Deed in the Official Records of Clark County, Nevada, on February 6, 2012, as Document Number 20120206-0001213, reflecting that Montagne Marron purchased the Property at the foreclosure sale. Montagne Marron's interest in the Property after the foreclosure sale was subject to the Deed of Trust.

1 IT IS FURTHER ORDERED that BNYM shall be entitled to record this STIPULATION  
2 AND ORDER OF FINAL JUDGMENT CONFIRMING EXISTENCE AND VALIDITY OF DEED  
3 OF TRUST in the Official Records of Clark County, Nevada in accordance with the rules of the  
4 Recorder's Office.

5 IT IS FURTHER ORDERED that this order constitutes the final judgment of this Court,  
6 resolving all claims in this case with prejudice, each party to bear its own fees and costs.

7 The Clerk of Court is directed to ENTER JUDGMENT ACCORDINGLY and CLOSE THIS  
8 CASE.

9  
10   
11 U.S. District Judge Jennifer Dorsey  
12 March 7, 2018  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28